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PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

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The meeting was called to order at 10.15 a.m.

EXPRESSION OF SYMPATHY IN CONNECTION WITH THE RECENT AIRLINE DISASTER IN GUAM

1. Mr. PARK expressed his deep gratitude to those colleagues who had offered their condolences following the crash of a Korean Air airliner in Guam on the previous day.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued)
(E/CN.4/Sub.2/1997/4 and 5; E/CN.4/1998/3-E/CN.4/Sub.2/1997/35 and E/CN.4/1998/4-E/CN.4/Sub.2/1997/36)

2. Mr. PEREZ (American Association of Jurists) said that as violence by paramilitary groups in Colombia continued to escalate, the country had three priorities: re-establishment of respect for human rights, public freedoms and democratic institutions; recovery by the State of its monopoly on armed force; and social reforms to ensure that the entire population's needs were met. Yet in the run-up to the regional elections, opposition activists were being murdered or threatened with death, totally falsifying the democratic process. Far from recovering its monopoly on armed force, the State had issued a decree legalizing the so-called "Convivir" rural vigilante groups (Asociaciones de Vigilancia y Seguridad Rural). Nor had the Government shown any intention of introducing the necessary social reforms. His organization thus called upon the Sub-Commission to adopt a resolution supporting the initiatives of the representative of the High Commissioner for Human Rights in Colombia, and particularly her proposal that the Convivir associations should be dissolved; and proposing that the Secretary-General should open negotiations with the Colombian Government with a view to dispatching an international mission to observe the elections to be held in October 1997.

3. Representatives of his organization had visited Peru in May 1997 to try to elucidate the circumstances surrounding the death of Carlos Ernesto Giusti Acuña, a member of the Peruvian Supreme Court of Justice, during the assault on the Japanese Embassy in Lima; and also to investigate attacks on the independence of the Constitutional Court by the Government and armed forces. The report of that mission was to be found in document E/CN.4/Sub.2/1997/NGO/11, which contained full details of the attacks on the powers of the Constitutional Court. Mr. Giusti Acuña, the only hostage to die in the assault on the embassy, had long been involved in the defence of human rights. The circumstances of his death had not been resolved, but it was alleged that he had died of wounds after being denied emergency medical care. Significantly, the only hostage to have been seriously wounded was, like Mr. Giusti Acuña, also a member of the Supreme Court of Justice. As for the 14 terrorists killed, most had been buried secretly amidst allegations that they had been summarily executed after surrendering. His organization urged the Sub-Commission to adopt a resolution expressing grave concern at those events and calling for the establishment of

an international commission to investigate the attack on the Japanese Embassy. The Sub-Commission might also consider sending two of its members on a fact-finding mission to Peru.

4. Mr. PAPPALARDO (France Libertés) said that the recent murders of Mario Calderón and his wife and father-in-law, members of the Centre for Investigation and Popular Education (CINEP), were the latest in a long list of murders of human rights defenders in Colombia. Year after year his organization called on the Sub-Commission and the Commission to stem the flow of blood, yet no serious measures were ever taken. At a meeting in Paris in December 1996, French non-governmental organizations (NGOs) had expressed their concern to the Colombian Minister for Foreign Affairs at threats to human rights defenders by the armed forces. The Minister had undertaken to convey those concerns to the President, but that initiative, too, had come to nothing. Instead, in a press interview given in February 1997 General Manuel José Bonnet had accused CINEP and other human rights organizations of damaging the country's interests; and on 19 May 1997 the Calderón family had been murdered.

5. On 16 June 1997 more than 30 NGOs had submitted a memorandum to the Colombian Government demanding, first, the repeal of the decree legalizing the Convivir associations, in compliance with recent recommendations of the Human Rights Committee; secondly, an end to links between the armed forces and paramilitary groups; and thirdly, the establishment of the government body to combat paramilitary activities that had been promised in two decrees promulgated in 1989. France Libertés urged the Sub-Commission to call upon the Colombian Government to show its will to guarantee the lives and safety of human rights defenders by bringing the murderers of Mr. Calderón and his family to justice.

6. In June 1997 the Turkish authorities had closed the Izmir, Diyarbakir and Malatya branches of the Association for Human Rights (IHD). The arbitrary arrest of 49 of its members - 31 of whom were still in prison - and the confiscation of their equipment left no doubt as to the Government's intentions. Such repression of peaceful defenders of human rights was not to be tolerated.

7. Mr. ROSSI (International Association for Religious Freedom) said that on 20 July 1997 the President of the Italian Republic, Mr. Oscar Luigi Scalfaro, had curtailed a visit to Saudi Arabia on discovering that he would be unable to fulfil his religious duties by attending mass in that country. Indeed, there were no churches in Saudi Arabia, it was forbidden to perform a non-Islamic religious rite, even in the privacy of the home, and all religions other than Islam were prohibited. The Italian President had been particularly annoyed because he had himself attended the inauguration of the Great Mosque in Rome, a project largely financed by Saudi Arabia. He had spoken out in favour of religious freedom in Saudi Arabia during his talks with King Fahd, and before leaving the country had told journalists that there was no freedom of worship in the country.

8. It was true that there was no freedom of worship or of religion in Saudi Arabia. But there was also no freedom of the press, no freedom of association, no freedom of organization, no political freedom. In short,

Saudi Arabia was not a free State under the rule of law, and not only its own citizens but also many foreigners suffered in consequence. Action must be taken to ensure that all those living in Saudi Arabia could enjoy their human rights and fundamental freedoms. No historical, cultural, religious or economic grounds or sovereign prerogative could be invoked to justify violations of human dignity. The Italian President had had the courage to speak out, privately and publicly, against the violation of religious freedom. United Nations human rights bodies, and in particular the Sub-Commission, must likewise speak out, publicly as well as in closed session, concerning the situation of human rights in Saudi Arabia, and must call publicly upon the Government to take all necessary steps to secure respect for human dignity.

9. The Sub-Commission should also address violations of individual rights by the Taliban movement in Afghanistan. Religious extremists, they, like the Saudi authorities, used religion for political ends, presenting a distorted image of Islam, a religion whose principles in fact respected human dignity to the highest degree. Women were prisoners in their own homes, which they could not leave unless covered from head to foot and accompanied by a male relation. No women other than doctors and nurses were permitted to work. Many had been beaten, humiliated or stoned to death. A police decree prohibited, inter alia, the manufacture of women's clothes, singing and dancing at marriage ceremonies, photographs, cassettes and music; and men were forbidden to shave and trim their beards.

10. Efforts must be redoubled to combat Islamic extremism, which continued to kill innocent victims in Afghanistan, Algeria, Israel and elsewhere. Religious extremism of all denominations, which sowed hatred, violence and death, must be combated. The Sub-Commission should pay closer attention to that phenomenon so as to assist humankind in ridding the world of a scourge that had already gained control in several countries and could threaten international peace and security.

11. Mr. BERNARD (International Federation of Human Rights - FIDH) said that an FIDH mission to Algeria in April 1997 had found evidence of a total breakdown in the judicial system, in which massive and systematic violations of human rights were perpetrated and were consistently concealed or played down by the Government. It was high time that the Sub-Commission lifted the veil of secrecy covering events in Algeria. It must react to that extremely serious state of affairs by recommending the appointment of a special rapporteur on the situation of human rights in Algeria.

12. FIDH had just completed a fact-finding mission to Mexico, during which the Mexican authorities had taken the step - unprecedented in its experience - of expelling two members of the mission. Their expulsion revealed a hardening of the Mexican authorities' attitude towards the activities of national and international NGOs. FIDH was extremely concerned at the rapid deterioration of the situation of human rights in Mexico. Economic crisis, corruption and social inequalities marginalized whole sections of the population, particularly indigenous people; and civil and political rights were flouted as the country became increasingly militarized. Impunity was the norm. FIDH called upon the Sub-Commission to express deep concern at those gross and systematic violations of human rights, and to recommend the appointment of a special rapporteur to investigate the situation in Mexico.

13. FIDH was also concerned at the persistence of gross violations of human rights in Turkey, and in particular of freedom of opinion and expression, as a result of anti-terrorist legislation. It had noted the commitments recently made by the new authorities, and reiterated its call for the immediate and full repeal of article 8 of the anti-terrorist law. It also urged the Sub-Commission to set up a mechanism to monitor the situation in Turkey.

14. The situation of human rights in Chad continued to be considered under the 1503 procedure. However, the expert appointed under that procedure was of the view that public consideration would be more appropriate, given that, far from taking steps to end systematic violations of human rights, the Government used them as an instrument of its repressive policy. Eight months previously, the Head of State had confirmed an order to execute thieves without trial, on the grounds that the judicial system was powerless and corrupt. Though that order had since been revoked, summary and arbitrary executions of men, women and children continued. The Sub-Commission should request the Commission to appoint a special rapporteur on the situation in Chad.

15. FIDH also deplored the alarming situation of human rights in Bahrain, where scores of people had been killed by the police in recent months. None of those extrajudicial executions had been investigated by the Government, and 1,500 persons involved in peaceful opposition activities had been arbitrarily detained since 1996. Freedom of expression did not exist in Bahrain. FIDH urged the Sub-Commission to condemn those gross, massive and systematic violations of human rights, and called upon the Government of Bahrain to invite the Commission's special rapporteurs and thematic working groups to visit Bahrain.

16. Ms. VIGNARD (International Association of Democratic Lawyers) said that, despite promises made by government officials, torture by police remained a common occurrence in Turkey, as had recently been confirmed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. According to Amnesty International's annual report, at least 11 people had died in custody in Turkey during 1996. The previous year, the European Court of Human Rights had several times found Turkey responsible for serious violations of human rights. Writers, journalists and political activists were often prosecuted for challenging government policies on the Kurdish question, and 184 members of Turkey's literary and cultural élite had been prosecuted for publishing a book on freedom of thought. Addressing a delegation of the Committee to Protect Journalists led by the former hostage Terry Anderson, President Demirel had expressed regret that Turkey was the country with the largest number of journalists in prisons and in the same breath had claimed that anyone who supported terrorism deserved to be locked up. It was to be noted, however, that in Turkey the definition of terrorism encompassed any speech or writing that might undermine the unity of the State.

17. On 14 May 1997 as many as 50,000 Turkish troops had invaded northern Iraq, indiscriminately bombarding villages under the pretext of hunting out Kurdish guerrillas. Neither the International Committee of the Red Cross (ICRC) nor journalists were allowed into the region, and United Nations monitors were prevented from fulfilling their mandate under Security Council resolution 986 (1995). All those examples showed that the Turkish authorities' claim to be moving towards greater democracy and fuller enjoyment

of human rights was fraudulent. The idea that quiet diplomacy could be effective was manifestly unfounded. Mechanisms existed to call Turkey to account, and they should be used.

18. Mr. KHALIFA said that the Sub-Commission was duty bound, at the turn of the century, to analyse the situation of human rights and to ascertain the "fin de siècle" mood towards human rights.

19. It was hard to avoid the conclusion that, after what might be termed the "golden age of human rights" brought about by the mutual scrutiny of the two giants which guaranteed the transparency of situations and the seriousness of allegations during the cold war era, the global human rights situation was deteriorating. The occasional tears shed for the victims of atrocities, starvation and homelessness were often crocodile tears, the human rights agenda was defined by the powerful, real politik prevailed over idealism, those who oversaw the world were largely monopolizing the human rights movement and the human rights arena had become a huge industry where a good deal of commercialism obtained and soldiers of fortune had found a lucrative business. However, it must be stressed that much good work had been done by some organizations that had established a good reputation and sufficient credibility.

20. The prestige of the United Nations could be used to serve the interests of the super Powers, as was seen in the discrepancy between General Assembly resolutions which reflected real international opinion and those of the Security Council which reflected the wish of the mighty Powers. To give one example, the Security Council was unable to condemn even the bulldozing of a site of spiritual significance to three major religions and the building of a one faith neighbourhood in occupied territory in violation of international law.

21. In a world that was under the yoke of inteventionism, any intervention was based on old-fashioned national interest: millions of refugees and great suffering did not happen accidentally but occurred when hatred and ethnic conflict were left to proliferate or develop. Human misery was irrelevant unless it became a threat to major economic interests. In Africa, dictators like Mbuto in Zaire had been the invention of Western interests, who had supported him for 32 years against his own people until he had outlived his usefulness and the way was cleared for the transnationals. Then it suited the same interests to cry democracy. While words like liberation, democracy and freedom were uttered, deals were being struck to syphon off the fabulous resources of Zaire. Intrigue was the name of the game in Zaire, Sierra Leone, Liberia, Angola, etc. A colossal tragedy was being enacted in a ruthless game of power and greed.

22. Countries with serious endemic health problems and pitiful literacy rates were given the new wonder drug of multi-party free elections. In other words, the Powers were creating a semblance of democracy; but democracy was not just free elections.

23. Selling arms at exorbitant prices to all warring factions was a thriving industry. Coupled with mercenaries there was a very good reason for igniting conflicts. Once a conflict had fulfilled its end, and lucrative arms sales

and mining contracts had been signed, talk turned to "peaceful and orderly transition" and the casualties and refugees were forgotten. The suffering of millions did not usually attract the attention of human rights activists to the same extent as the imprisonment of a single dissident when that individual's case could be exploited for political gain.

24. The true meaning of the "New International Order" proclaimed after the Gulf War was now clear: the world was to be run along the lines of a major corporation, with the super Power as the holding company and the rest of the world as small companies, formerly known as countries.

25. The world was in the grip of a powerful triangle of interests which had impeded legality, law and justice and opened the door to what he could only call international thuggery. That triangle was formed by international finance and transnational companies, in which presidents, politicians and diplomats were actors dancing to the music of international finance, the media, monopolized by the few to shape the minds of the many, and intelligence, the civilized name for spying, armed with the high-tech capability to subvert and create instability.

26. As if that were not enough, a fatal blow had been dealt to the very foundations of human rights by the bid to religionize those rights. Whereas religion should be conducive to greater tolerance and compassion, and thus bolster human rights, there was a disturbing trend towards atavistic practices ridiculing other people's religions; if that trend continued, religious militias would go out to "kill the infidels". The new battle cry of "Stop the persecution of Christians" was also a manifestation of hypocrisy and an attempt to use religion for political and economic purposes.

27. A question that continually arose was whether there was any affinity between the pitiful state of world affairs and the proliferation of terrorism. Was it true that violence, whether economic, political or violence in the enforcement of security, bred violence? A few months earlier, when it had seemed that peace was about to be achieved in the Middle East, a new philosophy had emerged that favoured terrorism and heavy-handedness. Whether one liked it or not, terrorism could not be written off and nobody was safe from it. He wondered whether it was feasible to expect anyone to put a stop to terrorism altogether. Could prime ministers be held responsible for terrorism in their territory, and did they have the power to prevent it? Terrorism might well continue to claim victims, but the super Power, and the Sub-Commission too in its own way, could do much to make the voice of reason prevail over fanaticism.

28. Ms. WEBBER (Food First Information and Action Network) expressed concern about the fate of 140 families of the Suminao clan of the Higaonon tribe in the Philippines, who were being harassed by the powerful Baula family over their claim to ancestral land. The harassment and intimidation had begun after the families filed an ancestral domain claim to the Department of Environment and Natural Resources, when armed guards, who were fencing off the disputed area, opened fire on protesting members of the clan, wounding one person. Later, the house of one of the claimants was burnt down. On 20 July 1997, the Suminao families had been attacked and evicted by armed

guards, hired by the Baula family, in cooperation with soldiers and the police. Three people had been killed in the attack and several seriously injured. Eleven settlements of the Suminao families had been demolished, and the rest were due to be demolished shortly.

29. The Suminao families had followed all due legal procedures and their claim was in accordance with the provisions of international law. They disputed the rejection of their claim, which had been turned down without a proper survey being carried out. As the Government of the Philippines was party to the International Covenant on Economic, Social and Cultural Rights, it was obliged under article 11 of the Covenant to take appropriate steps to realize the right to adequate food and housing. Moreover, various resolutions of the Sub-Commission and the Commission on Human Rights, such as resolution 1993/77 of the Commission, had urged Governments to undertake measures to eliminate the practice of forced eviction.

30. She therefore appealed, through the Chairman, to the Government of the Philippines to punish those responsible for the killings, suspend the demolitions, protect and relocate the 140 families, and order a complete survey of the disputed land before a final decision was taken. She further requested the Sub-Commission to urge the Government of the Philippines to take immediate action to reduce significantly the widespread practice of forced evictions.

31. Mrs. DAES expressed grave concern at the continuing deterioration in the human rights situation in the world and at levels of violence and terrorism.

32. The people of Albania, and in particular the Greek minority, had been subjected to violence, oppression and human rights violations and a number of people had lost their lives during the current year. She hoped that the newly elected Government would soon be able to restore public order, the rule of law and the human rights of all Albanian people.

33. The killing of hundreds of innocent people, including women and children in Algeria was also very disturbing. The bloodshed continued in certain areas of Zaire, Burundi and Rwanda and in other countries in Africa despite the efforts of the United Nations peacekeeping forces. In Latin America, the kidnapping and trading of hundreds of children continued as did the inhuman treatment of street children.

34. In Cyprus, enclaved Greek Cypriots had continued to endure hardships ranging from threats to the expropriation of their property: Greek Cypriot children had even been prevented by the illegal Turkish Cypriot regime from joining their enclaved families for the summer holidays in the Turkish occupied areas of the island. She hoped the forthcoming talks in Montreux between the President of the Republic of Cyprus and the leader of the Turkish Cypriot community would be successful and would contribute to the creation of a prosperous and peaceful future for all Cypriots.

35. Various international organizations and treaty-monitoring bodies had observed grave violations of human rights and humanitarian law in Turkey, particularly the destruction of villages in the south-east of the country by

the security forces, the systematic torture and ill-treatment of prisoners and arbitrary detention. She was extremely concerned about the fate of a number of journalists imprisoned for exercising their right to freedom of expression. She appealed, through the Chairman, to the observer delegation of Turkey to consider a review of the case of Mrs. Leyla Zana, a Kurdish woman who had been arrested and imprisoned in 1994 despite her legislative immunity and in violation of the Turkish Constitution, and sentenced to 15 years in prison for calling for autonomy for Kurdish areas. Mrs. Zana's non-violent approach had earned her the Zakharov Prize for Freedom of Thought awarded to her by the European Parliament in 1995.

36. She sincerely hoped that the Government of Turkey would take steps to establish a genuinely democratic order in Turkey, ratify and implement the relevant human rights instruments, and to respect the rule of law and human rights of everyone in Turkey, including its minorities.

37. Mr. ALI (Afro-Asian Peoples' Solidarity Organization) said that the peoples of South Asia were watching with alarm the unfolding drama in Afghanistan. Where the Taliban were in command, women were forced to ensure that their footsteps made no noise, men were not allowed to trim their beards, and television, music and sport were banned. What led the Taliban to believe that they could dominate a people whom no other force in history could subjugate? The Supreme Commander of the Taliban claimed that Pakistanis were flocking across the border from their religious schools to offer their support and The Sunday Telegraph of 1 June 1997 contained a report on Pakistani military aid to the Taliban.

38. If the Taliban ideology was allowed to spread, he feared for the other countries in the region. Similar groups in India were being trained by Pakistan and aspired to spread their version of religion not only within Jammu and Kashmir but also to other parts of the country. Smaller countries with Muslim communities such as Bangladesh, Nepal and Sri Lanka would find it even harder to withstand their onslaught. Groups trained in Pakistan were being sent as far afield as Bosnia and Herzegovina.

39. The Taliban ideology was in essence an extremist Islamic form of neo-colonialism nurtured by Pakistan in its attempts to become a power centre in the region.

40. Ms. AVELLO (Women's International Democratic Federation) said that in Colombia paramilitary groups supported by the armed forces regularly murdered human rights workers in covert operations. The great majority of such crimes went unpunished. Human rights organizations such as Andas del Valle, which worked on behalf of displaced persons, were harassed by the security forces. Paramilitary groups descended on defenceless villages with lists of names, torturing and beheading their victims. Decree-Law No. 356 had legalized many of the paramilitary groups through the Convivir rural vigilante groups. The Government purchased arms for the so-called groups with public funds. Her Federation supported a petition to dissolve the security groups and called on the Colombian Government to fulfil the pledges it had made in international forums.

41. In Algeria, the victims of the massacres of civilians included pregnant women. Most of the killings occurred in an area close to the capital which had the largest concentration of military forces in the entire country - and yet the local population remained defenceless.

42. According to reports by human rights organizations, women in Peru were being tortured and murdered even within the security forces, whose members acted with impunity. Journalists and human rights workers who dared to criticize the Government were harassed. The international community could no longer remain silent in the face of such abuses.

43. Mr. BUILO (International Association of Educators for World Peace) said that Cabinda was an enclave in Central Africa, wedged between the Democratic Republic of the Congo and the Republic of the Congo, which had been occupied and annexed by Angola in 1975 on the basis of the Alvor agreements concluded between Portugal and Angola without the consent of the people of Cabinda. The resistance movement of Cabinda had made numerous attempts to negotiate with the occupier but no solution to the conflict had yet been found.

44. Refugees from Cabinda in the Republic of the Congo were forced by officials of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) to accept Angolan nationality, a violation of their right to cultural recognition. Refugees in the Democratic Republic of the Congo were frequently pursued by Angolan troops with the aim of enforced repatriation.

45. Within Cabinda, the Angolan army often attacked the civilian population, burning villages and raping women, in retaliation for action by the resistance movement. People lived in fear of being shot or deported to prisons in Luanda if they expressed their views openly.

46. His Association called on the Sub-Commission to support the right of the people of Cabinda to self-determination.

47. Mr. GUISSÉ expressed support for Mr. Khalifa's statement.

48. At the end of the Second World War, the international community had promised peace to future generations. That promise had not been fulfilled. If the overall impact in terms of suffering, destruction and human rights violations of all the smaller conflicts that had occurred in the meantime could be calculated, the result would amount to several times the evil impact of the Second World War.

49. When the long period of bipolarity came to an end, the world's dream of peace revived only to be shattered again by the evidence of even greater egoism and intolerance. The arms industry continued to thrive, developing ever more sophisticated and deadly weapons. Inter-ethnic conflict had led to genocide. The rights of minorities and indigenous peoples were ignored. Poverty and famine were as rife as ever. Trafficking in women and children was widespread. Not a single individual right was respected, not even the

right to life. The right to life was the connecting link between all individual and collective rights, be they civil and political or economic, social and cultural. It was discouraging to see countries continuing to apply the death penalty in the same barbarous and often summary fashion. To speed up the process, entire groups were massacred, their only offence being the fact that they aspired to freedom, held different opinions or practised a different religion.

50. In some countries, the forces of law and justice were used for purposes contrary to freedom and led to a pernicious form of dictatorship. As a result, millions of people had lost confidence in the administration of public affairs and had taken part in uprisings to topple existing regimes at great cost in terms of human life.

51. Ethnic conflicts in East and Central Africa had led to one of the worst genocides in history. Millions of refugees had subsequently taken to the forests and died in their thousands while the world's leaders looked on unconcerned. He noted with great bitterness that only three days before the genocide the United Nations forces had withdrawn from the area, leaving the people to their fate.

52. At the same time, he paid tribute to the members of humanitarian organizations and peacekeeping forces and to individual journalists who had lost their lives in armed conflicts.

53. Africa was going through a period of massive and systematic violation of human rights, often with the complicity of the great Powers which needed markets for the products of their weapons industries. Their cynical aims were served by the fact that no African country in a conflict situation was an arms manufacturer.

54. He wished to comment on two notions that had been bandied about to such an extent that they were devoid of substance. The first was elections, supposedly the direct route to democracy. In Africa, many dictators who had come to power through a coup d'état were maintaining their position through rigged elections. People were no longer involved in public affairs and had lost faith in the concept of democracy. Legitimacy for them implied participation in political and economic life through the exercise of free choice and the prospect of benefiting from those choices through peace and development.

55. The second notion was the rule of law, which supposedly designated a State in which institutions and individuals enjoyed the protection of legislation that was in conformity with international standards. He could think of no country where the rule of law according to that definition existed. The situation was particularly bad in Africa where legal and judicial instability systematically obstructed progress towards the rule of law.

56. He urged the Sub-Commission to reflect on those two concepts with a view to redefining or expanding their content, and to call on the international community to show more restraint and more tolerance in their application.

57. Mr. ANAR (Habitat International Coalition) said he was speaking on behalf of the Human Rights Association (HRA) in Turkey, which was a member of the Habitat International Coalition.

58. During the past 70 years in Turkey, there had been numerous executions, hundreds had disappeared, censorship had been institutionalized and oppressive treatment of intellectuals and the Kurdish people had intensified. Torture was still a major problem. There were 107 intellectuals in jail for human rights activities and for expressing their views.

59. The human rights of ethnic minorities were systematically violated. None of the many ethnic groups in Turkey had the right to speak their language freely and educate their children in their mother tongue. Since 1984, 25,000 people had been killed in the war between the armed forces and the Kurdistan Worker's Party (PKK) in the south-east Kurdish region. According to a fact-finding report by the Habitat International Coalition, about 3,000 Kurdish villages had been destroyed by the armed forces and between 2.5 and 3 million Kurdish villagers displaced.

60. He urged the Sub-Commission to propose the following action to improve the situation: a halt to military operations in the Kurdish region and creation of conditions for political dialogue with international monitors; the safe return of displaced persons to their homes; the implementation of the Geneva Conventions and ratification of other human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination; the appointment of a special rapporteur on Turkey by the Commission on Human Rights; a halt to the ill-treatment of civilians, particularly their use as human shields; and a joint invitation by the Government of Turkey to the special rapporteurs on torture, the right to freedom of opinion and expression, and extrajudicial, summary or arbitrary executions.

61. Ms. PROUVEZ (International Commission of Jurists) said that the system of "faceless judges", a violation of the right to a fair trial, was still in existence in Peru. It was applied in civil courts in cases of alleged terrorism and in military courts in cases of high treason. The identity of the prosecutor and judge was not disclosed to the accused or his advocate, and the names, personal details and faces of witnesses were hidden. Such courts had been condemned by the Human Rights Committee in 1996 and by the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers in 1997. The Government had postponed their abolition twice, most recently until October 1997.

62. The Peruvian Congress had dismissed three Constitutional Court judges in May 1997 because they had challenged the constitutionality of the "re-election law", which allowed President Fujimori to run for a third term. The President of the Constitutional Court had resigned. The sanctioning of those who, in the exercise of their constitutional power of control, expressed an opinion unwelcome to those in power constituted a blatant breach of the rule of law.

63. Large-scale violations of human rights continued to occur in Turkey, particularly in the south-eastern part of the country in the context of the

counter-insurgency campaign against the PKK. The record of human rights violations published by the Turkish Human Rights Association for the three-month period from March to May 1997 documented extrajudicial killings, disappearances, torture, evacuation of villages, closure and raiding of associations, trade unions and press agencies and confiscation of publications.

64. Arrests and trials of journalists, writers, lawyers and human rights defenders had continued. According to the Committee to Protect Journalists, Turkey was the country with the largest number of journalists in prison. Turkish lawyers were subject to harassment ranging from wire-tapping and open surveillance to verbal abuse, investigations, imprisonment, torture and in some instances murder.

65. Torture and other ill-treatment, even of children, was still common. Prison conditions were deplorable.

66. Hundreds of villages in the south-eastern provinces had been depopulated, destroyed and burnt and civilians had been forcibly displaced. ICRC was denied access to the area. The incursion by Turkish troops into northern Iraq earlier in the year had resulted in the death and displacement of many civilians and the destruction of villages.

67. Her organization urged the Sub-Commission to recommend to the Commission on Human Rights the establishment of a mechanism to ensure that the intolerable human rights situation in Turkey was remedied.

68. In Belarus amendments to the Constitution adopted in 1996 following a referendum marred by irregularities endowed the presidency with troubling new powers and threatened the independence of both the legislature and the judiciary. Human rights defenders, NGOs and the media were also under attack. Discussion in the State-owned media was banned and the Government was conducting a fierce campaign against Russian broadcasts, which criticized its policies. Exorbitant fines were levied against demonstrators after unfair trials and excessive force was used to break up peaceful demonstrations. NGOs were harassed and independent print media were marginalized by a misuse of the government monopoly.

METHODS OF WORK OF THE SUB-COMMISSION (agenda item 1 (c)) (continued) (E/CN.4/Sub.2/1997/2, 3 and 33)

Organization of work

Statement by the Chairman of the Commission on Human Rights

69. Mr. SOMOL (Chairman of the Commission on Human Rights) said that he wished to comment on questions asked the previous day concerning both relations between the Commission and the Sub-Commission and the improvement, rationalization or reform of the Sub-Commission. He would attempt to clarify or interpret the text of Commission resolution 1997/22, although as all were aware, in the legal sense, an authentic interpretation could be made only by the Commission itself.

70. Firstly, it should be reiterated that the mandate of the Sub-Commission continued to be valid; the Commission only wished to ensure its efficient and focused implementation, as indicated in the second preambular paragraph and in paragraphs 1 and 3 (a).

71. In reply to the comment by Mr. Joinet, he reaffirmed that the main task of all the independent experts was to work and act as individuals, on the basis of their own knowledge, opinions and experience, irrespective of the opinions or positions of other bodies - including their own Governments - engaged in discussing a given issue. That was a key element of the Sub-Commission's work, as of any other body of experts in the United Nations system.

72. With regard to the questions concerning duplication of work and on new aspects or circumstances raised by Mrs. Palley, he said that there was no question of eliminating the consideration of country issues in the Sub-Commission, but unnecessary parallel work by the Commission and its subsidiary body on the same issue should be avoided, in line with the Sub-Commission's own decision 1996/115. The Commission was, indeed, interested in hearing the expert opinion of members of the Sub-Commission in specific cases. In principle, the intention of the Commission was that the Sub-Commission should not take action on any country situation under consideration in the public procedures of the Commission; the Secretariat had provided a list of such countries in document E/CN.4/Sub.2/1997/33. It was not excluded that between the sessions of the Commission and the Sub-Commission, there might be a substantive development in the field of human rights in a country (not dealt with by the Commission), i.e. important new evidence concerning past violations or completely new violations. There might be a need for the international community to react and to express its opinion on those violations through the United Nations human rights mechanisms. In that case the Sub-Commission really could function as an "early warning" element of the Commission, thereby alerting it to situations. There were examples of possible actions by the Sub-Commission which were not dealt with in the Commission resolutions. In a case where the Commission sent a mission to investigate the situation in a country, for example, and the mission was unable to carry out its mandate or was not allowed to enter the country, the question of using other alternative tools in the United Nations system had to be considered. He thought that the Sub-Commission had a role to play in expressing its opinion and recommending solutions in those and similar cases. That was his understanding of paragraph 3 (b) of the resolution. Turning to paragraph 3 (h) and the issue of the mandate and its implementation, he said human rights aspects were discussed in too many fringe areas, such as disarmament, economic development or the environment, instead of sticking to the core human rights aspects of broad issues.

73. In reply to the points raised by Mrs. Warzazi, he said that the issue of NGOs was very important both for the Commission and the Sub-Commission. Active participation by NGOs in the deliberations was most welcome, but there was a need to find a balance between governmental and non-governmental elements, together with - in the case of the Sub-Commission - the experts' contribution. All parties should seek ways and means of making NGOs' contributions more efficient.

74. There was no contradiction between paragraph 8 and paragraph 3 (e). The point was simply that the Commission, as parent body, should give its approval before the Secretary-General was asked for any action or information by the Sub-Commission.

75. On the issue of the politicization of the work of the Commission and Sub-Commission, he had nothing further to add to his comments of the previous day. He fully shared Mr. Eide's opinion that everyone (experts, government representatives and NGOs) should strive to stick to the facts and avoid unfounded allegations on such sensitive issues as human rights.

76. He welcomed Mrs. Daes' point that the Chairman of the Sub-Commission should participate in the meeting of chairpersons of United Nations treaty bodies. Another useful form of cooperation might be for the highly qualified independent experts of the Sub-Commission to prepare studies on issues proposed or needed by the treaty bodies.

77. Commission resolution 1997/22 provided good guidelines for improving, rationalizing or reforming the Sub-Commission, as did several of the Sub-Commission's own decisions, including 1996/115. Members of the Sub-Commission should continue to discuss the form such improvements should take among themselves and with the Commission. He himself would be happy to take part in such discussions. He was confident that 1998, the fiftieth anniversary of the Universal Declaration of Human Rights, would be a good time to take further steps in that direction.

78. Mr. WEISSBRODT said that the Chairman of the Commission had made it clear that the Commission and the Sub-Commission had the same objectives and should work together but that at the same time each had its own unique contribution to make.

79. Mr. JOINET said, with regard to NGOs, that naturally every effort must be made to ensure that allegations regarding human rights violations were well founded, but to achieve certainty on such matters was difficult even for Special Rapporteurs; allegations could often be substantiated only by going into the field. He himself had been called a terrorist, a subversive and a liar by Governments, but when the dictatorships in question had fallen the facts had turned out to be worse than his allegations. He also thought that the ambiguity contained in paragraph 5 of the resolution should be cleared up: the current wording suggested that States had not already nominated independent experts. The implication that Governments could not be trusted was disquieting.

80. Mrs. DAES welcomed the comments by the Chairman of the Commission regarding cooperation between United Nations treaty bodies. She was sure that valuable results would be achieved and duplication avoided.

81. Mrs. PALLEY asked the Chairman of the Commission to confirm her understanding that although the Sub-Commission should not concentrate on disarmament, economic development and the environment, for example, there was no question of excluding an examination of those issues where such action would be relevant and useful. Similarly, while according to paragraph 8 of

the resolution the Secretary-General should not be requested to solicit information from Governments and others, there was no reason, she assumed, why he should not provide any information already in his possession.

82. Mrs. GWANMESIA said that the complexities of the issue of duplication of work should not be overlooked. There was a hierarchy: the Sub-Commission, as a subsidiary body of the Commission, was the court of first instance, as it were, while the Commission was the court of appeal. The Sub-Commission, which had spent many hours discussing its agenda, deciding what to retain and what to omit, naturally submitted reports to the Commission on topics that the Commission itself would consider; but that was by no means the same as duplication.

83. Mr. EIDE said that the main point he had been trying to make the previous day concerned the role of the Commission and the Sub-Commission in reacting to allegations by NGOs. Avoidance of politicization was important so that human rights were not used as a vehicle for external interests. Action should be directed at improving the situation of the people in the country concerned, not to help outsiders. NGOs would therefore make a very helpful contribution by providing positive suggestions on how to deal with a given problem, taking account of the context in which the violations of human rights occurred. That would help the Sub-Commission find the appropriate response in a given situation.

84. Mr. EL-HAJJÉ said that the issues of politicization and the role of NGOs had been under discussion for many years, but he believed that the Sub-Commission was well on the way to striking the right balance.

85. Mr. SOMOL (Chairman of the Commission on Human Rights) saw it as his duty to participate actively in such issues as the relations between the Commission and the Sub-Commission. He agreed with Mrs. Palley that the right balance must be struck with regard to both paragraphs 3 (b) and paragraph 8. He welcomed Mrs. Gwanmesia's views: it was indeed important to establish what really was a duplication and to find ways of distinguishing between that and the necessary work carried out by the Sub-Commission. With regard to Mr. Eide's point, he was in consultation with NGOs on the matter. It was important that the Commission and the Sub-Commission should not restrict themselves to criticism. Where human rights violations occurred, positive steps should be taken to improve the situation and eliminate such violations.

The meeting rose at 1.15 p.m.